

**UNITED STATE DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT PIERCE DIVISION**

CASE NO. 22-14020-CR-CANNON

UNITED STATES OF AMERICA,

Plaintiff,

v.

ERNESTO PEREZ-PINA,

Defendant.

AMENDED ORDER ADOPTING IN PART REPORT AND RECOMMENDATION¹

THIS CAUSE comes before the Court upon the Report and Recommendation entered by Magistrate Judge Shaniek Maynard Following Change of Plea Hearing [ECF No. 22]. On May 2, 2022, Magistrate Judge Maynard held a Change of Plea hearing [ECF No. 20] during which Defendant pled guilty to one count of violating 8 U.S.C. § 1326(a) [ECF No. 13]. There is no written plea agreement in this case. Magistrate Judge Maynard thereafter issued a Report recommending that the Court accept Defendant's guilty plea, that the Court find Defendant to have freely and voluntarily entered his guilty plea, and that the Court adjudicate him guilty of 8 U.S.C. § 1326(a) [ECF No. 22]. No party has filed objections to the Report, and the time to do so has expired.

¹ As stated in open court on July 27, 2022, and in accordance with the record and with the parties' representations, Defendant pled guilty to violating 8 U.S.C. § 1326(a) only. The Indictment incorrectly references 8 U.S.C. § 1326(a) and (b)(1), but the transcript of the change of plea hearing makes clear that Defendant pled guilty only to 8 U.S.C. § 1326(a), and both parties reiterated that fact at sentencing. The Court therefore vacates its prior Order adopting the Report and Recommendation [ECF No. 24], which incorrectly adopted the Report and Recommendation's reference to 8 U.S.C. § 1326(b)(1) and also erroneously referenced a Title 18 offense. This Amended Order is substituted in place for the now-vacated Order, there being no dispute that Defendant pled guilty and was adjudicated guilty of violating 8 U.S.C. § 1326(a) only.

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The Court has conducted a review of the record and finds no error in the Report. Therefore, it is **ORDERED AND ADJUDGED** as follows:

1. The Report and Recommendation [ECF No. 22] is **ADOPTED IN PART** as indicated in this Order. *Supra* n.1
2. The guilty plea entered into by Defendant Ernesto Perez-Pina as to 8 U.S.C. § 1326(a) is **ACCEPTED**.
3. Defendant Ernesto Perez-Pina is adjudicated guilty of illegal reentry after removal, in violation of 8 U.S.C. § 1326(a) [ECF No. 13].

DONE AND ORDERED in Chambers at Fort Pierce, Florida this 28th day of July 2022.

A handwritten signature in black ink, appearing to read 'Aileen Cannon', written over a horizontal line.

AILEEN M. CANNON
UNITED STATES DISTRICT JUDGE

cc: counsel of record